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Code Va. 1904, c. 78, §§ 1754-1766, regulating the practice of pharmacy, which designates the State Board of Pharmacy as informer in prosecutions for violation of the chapter, is separate from the other provisions of the chapter, and the invalidity thereof does not affect the validity of the other provisions.

[Ed. Note.—For other cases, see Statutes, Cent. Dig. §§ 58-66, 195; Dec. Dig. § 64.*]

7. Statutes (§ 64*)—Partial Invalidity—Effect.—A statute may be constitutional in some of its provisions and unconstitutional in others; but, where the parts can be so separated as that each can stand as the will of the Legislature, the good does not perish with the bad.

[Ed. Note.—For other cases, see Statutes, Cent. Dig. §§ 58-66, 195; Dec. Dig. § 64.*]

8. Constitutional Law (§ 42*)—Statutes—Validity—Persons Entitled to Attack Validity.—The court will not listen to an objection to the constitutionality of a statute made by a party whose rights it does not affect, and who has no interest in defeating it; and hence a nonregistered pharmacist prosecuted under Code Va. 1904, c. 78, §§ 1754-1766, for retailing carbolic acid, cannot complain of the provision of the chapter giving the board of pharmacy the sole right to institute prosecutions for violations of the chapter, for he cannot be injuriously affected thereby.

[Ed. Note.—For other cases, see Constitutional Law, Cent. Dig. § 39; Dec. Dig. § 42.*]

WILSON *v.* SOUTHERN R. CO.

Nov. 19, 1908.

[62 S. E. 972.]

1. Master and Servant (§ 177*)—Injury to Servant—Fellow Servants.—The doctrine of fellow servants had no application to the injury of a railroad employee by the turning of a rail on a car while he and his co-servants were unloading a rail from the car in a method directed by the foreman; the reason for the turning of the rail not being proved.

[Ed. Note.—For other cases, see Master and Servant, Dec. Dig. § 177.*]

2. Master and Servant (§ 97*)—Injury to Servant—Negligence.—Where the cause of the turning of a rail, by which plaintiff's foot was caught and injured as he was assisting in unloading a rail car, was not shown, and the evidence at most only showed a mistake in judgment of the foreman as to the manner of unloading the rails, the

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.

accident being such as could not have been expected to happen, negligence was not shown.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. § 163; Dec. Dig. § 97.*]

3. Negligence (§ 58*)—“Proximate Cause”—Elements.—The requisites of “proximate cause” are the doing or omitting an act which a person of ordinary prudence could foresee might naturally or probably produce the injury, and that such act or omission did produce it.

[Ed. Note.—For other cases, see Negligence, Cent. Dig. §§ 71, 72; Dec. Dig. § 58.*]

For other definitions, see Words and Phrases, vol. 6, pp. 5758-5769; vol. 8, p. 7771.]

4. Master and Servant (§ 97*)—Injury to Servant—Duty of Master.—A master is required to anticipate and guard against consequences injurious to his servant, that may be reasonably expected to occur, but he is not compelled to foresee and provide against that which reasonable and prudent men would not expect to happen.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. § 163; Dec. Dig. § 97.*]

LIFE INS. CO. OF VIRGINIA *v.* HAIRSTON.

Nov. 19, 1908.

[62 S. E. 1057.]

1. Evidence (§ 472*)—Opinion Evidence.—In an action on a life policy, not in force until issued and the first premium paid during the good health of insured, testimony of the agent procuring the insurance that when a policy is delivered it is binding on insurer is, when preceded by testimony that insured paid part of the first premium in cash, and gave a note for the balance, which was paid some days after its maturity, the opinion of the agent on a point in issue.

[Ed. Note.—For other cases, see Evidence, Dec. Dig. § 472.*]

2. Appeal and Error (§ 1058*)—Harmless Error—Error in Excluding Evidence Subsequently Received.—Error in refusing to permit a party to propound questions to a witness is not prejudicial, when the questions are subsequently asked the witness and answered without objection.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 4195, 4200-4206; Dec. Dig. § 1058.*]

3. Insurance (§ 137*)—Contract—Requisites—Payment of Premium.—An insurer issuing a life policy may accept, in payment of the first premium, the liability of a third person; and, where insurer

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